

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION

TRUST SERVICES, INC.

PLAINTIFF

v.

Civil No. 03-5295

HORSE POWER EXPRESS, INC.

DEFENDANT

MEMORANDUM OPINION

Now on this 19th day of August, 2005, comes on for consideration plaintiff's **Motion For Entry Of Default Judgment** (document #13), and from said motion, and the supporting documentation, the Court finds and orders as follows:

1. On December 10, 2003, plaintiff filed a Complaint seeking damages for losses said to have been incurred in the shipping of goods in interstate commerce.

2. Repeated difficulties were encountered in obtaining service upon the defendant, but on July 13, 2004, service was perfected by the United States Marshal's Service.

3. No response to the Complaint was filed by defendant, and on August 26, 2004, the Clerk of Court entered Default against the defendant.

4. On May 5, 2005, plaintiff moved for Default Judgment. The motion seeks \$13,381.12 in damages; \$6,000.00 in attorney's fees; \$755.00 in costs; pre-judgment interest on \$13,381.12; and post-judgment interest.

Documentation attached to the Complaint supports the amount of damages, and that amount does not exceed the amount prayed for

in the Complaint, as required by **F.R.C.P. 54**. A separate Statement of Counsel supports an award of attorney's fees in the sum of \$5,165.00. The sums for filing fee and service of process in the amount of \$755.00 are recoverable costs pursuant to **28 U.S.C. §1920**. Plaintiff will be given judgment for these amounts.

Plaintiff does not suggest what the appropriate rate of pre-judgment interest would be, however, and no award will be made for that item.

5. For the foregoing reasons, the Court finds that plaintiff's **Motion For Entry Of Default Judgment** (document #13) should be, and same hereby is, **granted**, and by separate Judgment entered of even date herewith, will award plaintiff judgment in the sum of \$19,301.12.

IT IS SO ORDERED.

/s/ Jimm Larry Hendren
JIMM LARRY HENDREN
UNITED STATES DISTRICT JUDGE